

REMARKS

Claim 7 is pending. Claim 7 was rejected. Applicant has amended claim 7 to overcome all rejections. The amendments to the claim are not new matter, and are supported on page 6, second paragraph of the specification.

The Examiner wrote that the information disclosure statement filed July 15, 2004 has not been considered. Applicant requests that the IDS be reviewed.

OBJECTIONS

Claim 7 was objected to under 37 CFR 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. As amended, claim 4 is an independent claim and the claim form is proper.

35 USC § 101

Claim 7 was rejected under 35 USC § 101 as reading on a product of nature. As amended, the claim is directed to an isolated gene encoding a recombinant protein. Thus it is not a product of nature.

35 USC § 112

Claim 7 was rejected under 35 USC § 112, second paragraph as being indefinite. As amended, the claim is an independent claim and, thus, overcomes all the issues cited by the Examiner.

Claim 7 was rejected under 35 USC § 112, first paragraph as failing to satisfy the written description requirement. As amended, Applicant believes the claim satisfies the written description requirement, as explained below.

Claim 7 is directed to an isolated gene comprising SEQ ID NO:4 which encodes the recombinant protein of SEQ ID NO:1. Disclosure of the claimed invention is found on page 6, second paragraph, which states that the amplified mutated PA gene was cloned and expressed to obtain the recombinant protein PA-I (SEQ ID NO:1). Further, in paragraph 5 on page 6, it is stated that a composition comprising the PA-I protein is useful in inhibiting anthrax toxin. Still

further, SEQ ID NO:4 is disclosed in the specification at the bottom of page 5, lines 27 and 28, and the sequence itself is provided in the Sequence Listing.

In addition, the Examiner has conceded, on page 6 of the Office Action, first full paragraph, that the claimed invention has been described in the specification. For this reason, Applicant requests that the rejection be reconsidered and withdrawn.

35 USC § 102


Claim 7 was rejected under 35 USC § 102(b) as anticipated by Sirard et al., in light of claim limitations that are unclear and read on the disclosure of Sirard et al. Applicant believes that, as amended, claim 7 is not anticipated by Sirard et al.

The Examiner stated that Sirard et al. discloses a recombinant protein that was the entire iota toxin Ib component that would inherently comprise the coding sequence SEQ ID NO:2 which is encoded by codons which are the or equivalent to the codons of SEQ ID NO:4. Notwithstanding, this argument, claim 7 as amended, is directed to the isolated gene that encodes the recombinant protein of SEQ ID NO:1. Sirard et al., does not disclose this recombinant protein, nor the gene encoding the recombinant protein. For this reason, Applicant respectfully requests that the rejection be reconsidered and withdrawn.

In view of the foregoing, Applicants submit that all pending claims are in condition for allowance and request that all claims be allowed. The Examiner is invited to contact the undersigned should she believe that this would expedite prosecution of this application. It is believed that no fee is required. The Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 13-2165.

Respectfully submitted,

Dated: June 5, 2006


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